

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES SAYLOR,

Plaintiff,

vs.

RANDY KOHL, M.D.; DENNIS
BAKEWELL, ROBERT HOUSTON,
NATALIE BAKER, M.D.; MOHAMMAD
KAMAL, M.D.; CAMERON WHITE, PhD.;
MARK WEILAGE, PhD.; FRED BRITTEN,
KARI PEREZ, Ph.D; and CORRECT
CARE SOLUTIONS, LLC,

Defendants.

4:12CV3115

ORDER

This matter is before the Court on plaintiff's motion to reconsider, [Filing No. 225](#), this Court's Memorandum and Order, [Filing No. 222](#). Defendant Correct Care Solutions, LLC ("CCS") filed a brief in opposition to plaintiff's motion to reconsider, [Filing No. 229](#). In its Memorandum and Order, this Court dismissed the claims against Kohl, Bakewell, Houston, White, Weilage, Britten, and Perez. The Court also granted defendants Baker's and CCS's motions for summary judgment and dismissed all of Saylor's claims against defendants Baker and CCS. The Court denied defendants Kohl, Bakewell, Houston, White, Weilage, Britten, and Perez's motion for judgment on the pleadings as moot.

Plaintiff asks this Court to allow him to file a third amended complaint and add an entirely new claim for a violation of the American with Disabilities Act allegedly because he has post-traumatic stress syndrome. The Court agrees with the defendant that this will not be allowed. First, plaintiff has made no showing that he has met the standards

of Fed. R. Civ. P. 59(e) (motion to alter or amend a judgment) and 60(b) (grounds for relief from order)¹. Next, plaintiff already amended his complaint in this case. At no point during this time did plaintiff ever ask to include an American Disabilities Act Claim in his case. Motions to reopen a case after dismissal in order to allow amendments to the complaint are “disfavored.” *U.S. ex rel. Roop v. Hypoguard USA, Inc.*, 559 F.3d 818, 824 (8th Cir. 2009). Further, Rule 59(e) motions “serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence.” *U.S. v. Metropolitan St. Louis Sewer Dist.*, 440 F.3d 930, 933 (8th Cir. 2006) (internal quotation omitted). Plaintiff has not alleged that the Court committed any errors of law or fact. Nor has he contended that he has new evidence for this claim. In fact, it appears that this cause of action has existed throughout the case. The Court finds no good reason to permit the plaintiff to amend his complaint.

THEREFORE, IT IS ORDERED THAT plaintiff’s motion to reconsider, Filing No. 225, is denied.

Dated this 6th day of February, 2017.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

¹ These grounds include: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief. Fed. R. Civ. P. 60(b).